

1 DUANE M. GECK (State Bar No. 114823)  
2 DAVID E. PINCH (State Bar No. 124851)  
3 DONALD H. CRAM (State Bar No. 160004)  
SEVERSON & WERSON  
4 A Professional Corporation  
One Embarcadero Center, Suite 2600  
5 San Francisco, CA 94111  
Telephone: (415) 398-3344  
Facsimile: (415) 956-0439

6 Attorneys for Plaintiff  
7 FORD MOTOR CREDIT COMPANY,  
LLC, a Delaware Limited Liability  
8 Company

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11

12 FORD MOTOR CREDIT COMPANY, LLC, a  
Delaware Limited Liability Company,

13 Plaintiff,

14 vs.

15 LEWIS FAMILY ENTERPRISES, INC. dba  
16 BOB LEWIS LINCOLN MERCURY, a  
California Corporation, and STEVEN  
17 ROBERT LEWIS, an individual,

18 Defendants.  
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Case No.: C 07-03301 JW

**FORD MOTOR CREDIT COMPANY,  
LLC'S OPPOSITION TO  
DEFENDANTS' MOTION FOR  
ENLARGEMENT OF TIME TO  
RESPOND TO COMPLAINT**

**[Fed. R. Civ. Proc. 6(b) & Civil L.R. 6-3]**

Hearing Date: No hearing pending  
Time:  
Dept.: 4  
Judge: Magistrate Richard Seeborg

Complaint filed: June 22, 2007  
Trial Date: Not set

Ford Motor Credit Company, LLC, a Delaware Limited Liability Company (“Ford Credit”), opposes the motion of defendants, Lewis Family Enterprises, Inc. and Steven Robert Lewis (“Lewis”) (collectively, Lewis Family Enterprises, Inc. and Lewis shall be referred to as “Defendants”), seeking enlargement of time to respond to the Complaint filed June 22, 2007.

### **I. STANDARDS FOR ENLARGEMENT OF TIME**

Upon request of a party, Rule 6(b) provides the Court with discretion to enlarge the time periods set forth in Federal Rules of Civil Procedure. With respect to requests to enlarge time, Civil L.R. 6-3 requires that the movant:

- 1) Set forth with particularity, the reason for the requested enlargement or shortening of time;
- 2) Describe the efforts the party has made to obtain a stipulation to the time change;
- 3) Identify the substantial harm or prejudice that would occur if the Court did not change the time;
- 4) Discloses all previous time modifications in the case, whether by stipulation or Court order;
- 5) Describes the effect the requested time modification would have on the schedule for the case.

### **II. GROUNDS TO DENY APPLICATION TO SET ASIDE DEFAULT**

#### **A. Defendants have had Ample Time to Craft a Response to the Complaint**

The Complaint in this case was filed on June 22, 2007. Lewis Family Enterprises, Inc. was personally served on June 25, 2007. Lewis was personally served on June 26, 2007. A responsive pleading was due on July 19, 2007. Defendants argue that they were lulled to believe that Ford Credit would not pursue its legal rights pending an alleged sale of the dealership’s franchise. Although Ford Credit disputes this contention, there can be no doubt that by August 9, 2007, Defendants knew Ford Credit was proceeding with this action (See Declaration of Donald H. Cram, III in Support of Ford Motor Credit Company, LLC’s Opposition to Application of Defendants to Set Aside Default filed October 12, 2007, ¶10 and Exhibit F). Since this time,

1 Defendants squandered nearly three months that could have been utilized to confer with their  
2 lawyers in order to craft an appropriate response to the Complaint. Further, Defendants have  
3 already drafted an Answer to the Complaint which can be filed. Defendants by application  
4 previously sought and obtained an order setting aside their default. In support of that application,  
5 Lewis submitted a declaration and attached a proposed Answer to the Complaint (See Declaration  
6 of Steven Robert Lewis in Support of Defendants' Application to Set Aside Clerk's Entries of  
7 Default filed September 7, 2007, ¶15 and Exhibit A).

8 **B. Inability to Comply with the Court's Order Setting Case Management**  
9 **Conference**

10 On October 1, 2007, the Court issued an Order Setting Case Management Conference  
11 requiring the parties to: 1) discuss the items referred to in Civil L.R. 16-10; 2) file a Joint Case  
12 Management Conference Statement no later than November 21, 2007; and 3) appear at a Case  
13 Management Conference on November 28, 2007. Defendants' delay in responding to the  
14 Complaint results in an inability to engage in meaningful discussions which in turn prohibits  
15 compliance with the deadlines imposed by the Court's Order. The delay also inhibits the ability  
16 of counsel for the parties to meet and confer in an attempt to agree upon an ADR process for this  
17 matter.

18 **C. Defendants had the Opportunity to Seek an Enlargement of Time to Respond**  
19 **in Conjunction with Their Application to Set Aside Default**

20 Defendants by application previously sought an order setting aside their default and could  
21 have easily requested additional time to file a response in conjunction with this application.  
22 Instead, Defendants gave the impression that they were prepared to file an Answer (See  
23 Declaration of Steven Robert Lewis in Support of Defendants' Application to Set Aside Clerk's  
24 Entries of Default filed September 7, 2007, ¶15 and Exhibit A). Defendants' failure to seek  
25 additional time to respond to the Complaint in conjunction with the prior application to set aside  
26 their default further evidences a lack of diligence. This lack of diligence should not be rewarded.

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**III. CONCLUSION**

For the reasons set forth above, Ford Credit respectfully requests that the Court deny the Defendants' motion for enlargement of time to respond to the Complaint and for such further relief as the Court deems appropriate.

DATED: November 8, 2007

Respectfully submitted,

SEVERSON & WERSON  
A Professional Corporation

By: /s/ Donald H. Cram, III  
Donald H. Cram

Attorneys for Plaintiff  
FORD MOTOR CREDIT COMPANY, LLC, a  
Delaware Limited Liability Company